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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,134	01/28/2004	Donald J. Kerrish	61404-020	3590

7590 08/28/2006

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

CRANE, LAWRENCE E

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Examiner-Initiated Interview Summary	Application No.	Applicant(s)	
	10/765,134	KERRISH ET AL.	
	Examiner	Art Unit	
	L. E. Crane	1623	

All Participants:

(1) L. E. Crane.

(2) Daniel Bucca.

Status of Application: FAOM mailed 2/23/06

(3) _____.

(4) _____.

Date of Interview: 22 August 2006

Time: 10:15 AM

Type of Interview:

- ☐ Telephonic
☐ Video Conference
☒ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☐ No
 If Yes, provide a brief description:

Part I.

Rejection(s) discussed:
all of record

Claims discussed:
all of record

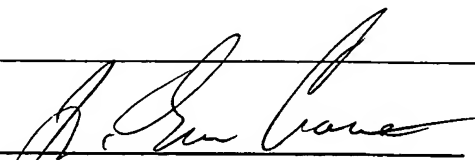
Prior art documents discussed:
all of record

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:
See Continuation Sheet

Part III.

- ☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.


 (Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: Applicant advised that related application 10/882,358 was also under examination and that 10/285,188, a Novartis case available as a PGPUB document, was a potential basis for an interference.

Examiner suggested that the 112, first paragraph rejections and the first rejection under 112, second paragraph, were in effect three attempts to question enablement and should be considered one rejection. Applicant wanted to know why the figure was objected to. Examiner showed applicant the copy of the figure presently in the case. Applicant indicated that a new figure would be submitted. Applicant also indicated that the first paragraph continuation/related case information would also be updated.

Applicant indicated that the obviousness-type double patenting rejection would be addressed with a terminal disclaimer.

In discussions of the art rejections, applicant argued that the instant process dissolves ribavirin and then produces a pelleted product which apparently has the same crystal form of ribavirin as originally used as starting material, an unexpected result. Applicant also noted that the process of Lebovitz '128 was fundamentally different because it was a dry process, selected apparently in order to preserve the crystal form of the ribavirin.

Examiner suggested that opinion declarations were not particularly useful, but that declarations which add facts to the case record would be considered helpful. Applicant supplied a set of proposed amendments including amendments to the last two claims directed to pharmaceutical compositions, claims which examiner thought to be unlikely to be granted in view of the prior art. Applicant agreed to respond promptly to all outstanding issues. No agreements were reached concerning allowable subject matter.